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original **FILED**

July 21 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

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STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA
Case No. DA10-0022

JAMES M. WALTERS and)
DIANE M. WALTERS)
)
Plaintiffs/Appellees,)
)
and)
)
LARRY LULOFF and)
JANET PERKINS LULOFF,)
)
Defendants/Appellants.)
_____)

**APPELLEES RESPONSE TO APPELLANTS PETITION FOR
REHEARING OF ORDER OF JUNE 23, 2010**

Comes now, the Appellees, James M. Walters and Diane M. Walters
“Walters”, by and through their attorney of record, and responds to Appellants,
Janet and Larry Luloff “Luloffs” Petition for Rehearing of Order of June 23,

2010. The order dismissing this appeal should not be reconsidered and if the court reconsiders, it should dismiss the appeal for the reasons set forth in Appellees Walters Motion to Dismiss filed herein on June 7, 2010. Denying the request for rehearing would serve the interests of judicial economy.

The undersigned had checked the Supreme Court docket on-line and as of May 18, 2010, there was no docket entry showing the filing of the Luloffs' opening brief. The opening brief delivered to the undersigned does not comply with the rules of appellate procedure. Therefore the undersigned assumed, incorrectly in hindsight, that Luloffs had not timely filed their opening brief. The undersigned was advised by a Clerk of the Supreme Court that the brief was timely filed but not entered on the docket on the date of filing. The Clerk returned the Motion to Dismiss dated May 18, 2010. The undersigned revised the Motion to Dismiss by removing the reference to failure to file opening brief as a reason for dismissal and filed it on June 7, 2010.

Walters respectfully request that the Supreme Court deny Luloffs' request for rehearing or alternatively issue its order dismissing this appeal with prejudice for any one or all of the reasons set forth in their Motion to Dismiss dated June 7, 2010.

RESPECTFULLY SUBMITTED this 20th day of July, 2010.

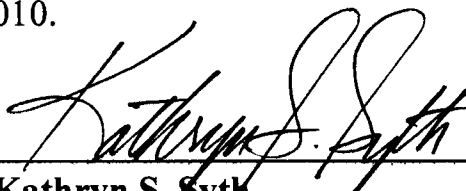
LaRANCE & SYTH, P.C.

BY: 
KATHRYN S. SYTH
Attorney for Appellees

CERTIFICATE OF COMPLIANCE

Pursuant to Rule 20 of the Montana Rules of Appellate Procedure, I certify that this objection to rehearing is printed with a proportionately space New Roman Times typeface of 14 points; is double spaced; and the word count calculated by WordPerfect 9, is not more than 2,500 words or ten (10) pages, excluding CERTIFICATE OF COMPLIANCE and CERTIFICATE OF SERVICE.

Dated this 20th day of July, 2010.

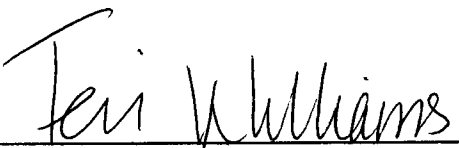

Kathryn S. Syth,
Attorney for Appellees

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing was mailed, postage prepaid, upon the following on the 20th day of July, 2010:

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